

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

SEATTLE UNIVERSITY,

Employer,

and

SEIU LOCAL 925,

Petitioner.

Case 19-RC-122863

**Request for Special Permission to Appeal the Regional Director's Decision to
Impound Ballots, and Seeking Order to Count Ballots**

Pursuant to Sec. 102.26 of the Board's Rules and Regulations, Service Employees International Union Local 925 files this Request for Special Permission to Appeal the Regional Director's decision to impound ballots. We ask the Board to order that the ballots be counted to prevent unnecessary use of limited Board resources, and also to provide some measure of finality to workers who otherwise may wait years to learn the results of the union election at their workplace.

On February 20, 2014, SEIU Local 925 filed a petition seeking to represent a unit of contingent faculty at Seattle University. In response, the Employer raised numerous objections to the petition, including arguments that the Board lacks jurisdiction under *Catholic Bishop*, 440 U.S. 490 (1979), and that full-time contingent faculty are excluded managers under *Yeshiva University*, 444 U.S. 672 (1980). Due to the Employer's objections, the Region held an eight-day hearing on all issues. Following briefing from

the parties, on April 17, 2013, the Regional Director issued a Decision and Direction of Election rejecting all of the Employer's objections and ordering a mail ballot election among the contingent faculty in the petitioned-for unit.

Thereafter, Seattle University appealed the Regional Director's Decision and Direction of Election on all issues. SEIU Local 925 filed an opposition to the Employer's request for review. The Board has not yet ruled on the request for review. The mail ballot election was held between May 14, 2014 and June 2, 2014. The Regional Director impounded the ballots on June 3, 2014.

SEIU Local 925 respectfully requests that the Board direct the Regional Director to open and count the ballots. If SEIU Local 925 did not receive a majority of the votes properly cast in the mail ballot election, the Board would not need to decide any of the issues raised in this case, including the Employer's contention that the Board cannot take jurisdiction over Seattle University.

In the interest of prioritizing the use of Board resources for the resolution of necessary questions, the Board has previously ordered ballots to be counted despite pending appeals where the outcome of the election could moot the issues. Under similar circumstances, the Board in *Duquesne University* ordered a Regional Director to open and count the ballots:

If the Petitioner did not receive a majority of the votes cast, it may not be necessary to address the Employer's contention that it is not subject to the Board's jurisdiction. Conversely, if the Union did receive a majority of the votes cast, the Employer may renew its jurisdictional contention before the Board.

Duquesne University of the Holy Spirit, Case 06-RC-080933 (September 14, 2012). *See also Gaylord National Resort and Convention Center*, Case 05-RC-097275 (March 12,

2013) (Board directed Region to conduct election and count ballots because if Petitioner union did not win the election, it would not be necessary to reach issue raised in Intervenor union's special appeal); *FJC Security Services*, Case 29-RC-011999 (March 12, 2013) (same).

No party in this case would be harmed by the immediate opening and counting of the ballots, inasmuch as Seattle University may renew its jurisdictional argument, as well as the other issues raised in its request for review, if SEIU Local 925 receives a majority of the votes cast.

If SEIU Local 925 did not receive a majority, the contingent faculty at Seattle University will have finality in knowing that the ballots they have already cast have been counted.

On the other hand, if the ballots are not opened and counted, the Board will continue to expend limited resources to resolve issues that it may, in fact, not need to resolve. In addition, the contingent faculty at Seattle University may have to wait years before knowing whether or not their union has succeeded. *See Manhattan College*, Case 02-RC-23543 (ballots impounded for over three years on the basis of the employer's *Catholic Bishop* claim); *Saint Xavier University*, Case 13-RC-22025 (ballots impounded for nearly three years on the basis of the employer's *Catholic Bishop* claim); *Pacific Lutheran University*, Case 19-RC-102521 (ballots impounded for nearly eight months on the basis of the employer's *Catholic Bishop* and *Yeshiva* claims). The contingent faculty at Seattle University have already waited months for the hearing and briefings to be completed before they were able to have an election.

Accordingly, we urge the Board to order the Regional Director to open and count the ballots cast by the Seattle University contingent faculty.

Dated: June 9, 2014.

Respectfully submitted,

s/ Paul Drachler, WSBA # 8416

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CERTIFICATE OF SERVICE

I certify that on the 9th day of June, 2014, a copy of the SEIU Local 925's Request for Special Permission to Appeal the Regional Director's Decision to Impound Ballots, and Seeking Order to Count Ballots was e-filed with the National Labor Relations Board and with Region 19 and was served upon the following persons as follows:

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Dated this 9th day of June, 2014.

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